

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

DON P. WILSON,

Plaintiff,

v.

**BILL LUCADO, EARL HUMPHRIES,
THAD CHILDS, JIM ADAMS SR.,
JOHN MORGAN, BILLY DANIELS, and
TOM CARSON,**

Defendants.

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5:08-cv-057 (HL)

ORDER

A Motion for Stay on Account of Chapter 7 Bankruptcy (doc. 3) was filed on March 20, 2008, on behalf of Defendant John Morgan. Said motion states that on March 12, 2008, Defendant filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Middle District of Georgia. The Bankruptcy Court case number is 08-50640.

The filing of a petition for relief under Chapter 7 of the Bankruptcy Code “operates as a stay, applicable to all entities, of—(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title.” 11 U.S.C. § 362(a). Therefore, Defendant’s filing of a petition for relief under Chapter 7 serves to stay the continuation of this case as to him.

As a general rule, courts may adjudicate the liability of defendants not protected by the

bankruptcy court's automatic stay, even though another defendant is protected by the bankruptcy stay. See, e.g., Carriage House Decorations, Inc. v. South Fla. Rest. Corp., No. 92-8736CIVNESBITT, 1995 WL 318567, at *2 (S.D. Fla. Feb. 28, 1995) (citing United States v. Dos Cabezas Corp., 995 F.2d 1486, 1491 (9th Cir. 1993)). The circumstances of this case do not appear to warrant staying the action as to all Defendants merely because one Defendant has filed for bankruptcy, despite the fact that the allegations as to all Defendants appear to arise from the same factual and legal basis. This position is further supported by the fact that none of the other parties has responded to nor objected to Defendant John Morgan's motion. Accordingly, it is the ruling of the Court that this action be stayed with respect to Defendant John Morgan. However, the action will proceed as to the remaining Defendants.

SO ORDERED, this 23rd day of May, 2008.

/s/ **Hugh Lawson**
HUGH LAWSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

HL/cbb